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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/716,998  | 11/19/2003  | Regis J. Crimon      | MS1-1733US          | 7597             |
| 22801   | 7590        | 11/12/2009           |                     |                  |
| LEE & HAYES, PLLC<br>601 W. RIVERSIDE AVENUE<br>SUITE 1400<br>SPOKANE, WA 99201 |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| IDOWU, OLUGBENGA O  |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
| 2425  |             |                      |                     |                  |
| NOTIFICATION DATE   |             | DELIVERY MODE        |                     |                  |
| 11/12/2009  |             | ELECTRONIC           |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

### Office Action Summary

**Application No.**

10/716,998

**Applicant(s)**

CRINON ET AL.

**Examiner**

OLUGBENGA IDOWU

**Art Unit**

2425

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1- 3, 14-15, 19- 20, 22 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1- 3, 14-15, 19- 20, 22 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S5108)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/7/2009 has been entered.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1- 3, 14-15, 19- 20, 22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlucci, publication number: 2004/0015999 A1 in view of MacInnis, publication number: 2003/0028899 in further view of Eyal, patent number: 6 484 199.

As per claim 1, 14, 20 and 22, Carlucci teaches a computer storage media having processor- executable instructions that, when executed by a processor, performs a method comprising:

receiving, by head-end equipment from a content provider, a digital television (DTV) application and its associated metadata (Fig. 1, headend receiving data from a provider [0050- 0052]), wherein the receiving is facilitated by an extended asset definition interface (receiver, Fig. 5a, 78), the extended asset definition interface specifying a data structure including the DTV application and metadata attributes (receiving data and metadata [0087], [0089]) consisting of: an application identifier field for identifying the DTV application(PIC, [0056], lines 5 - 10);

an application-type field for indicating a type of the DTV application (PIC, [0056], lines 5 - 10);

a visibility field for indicating the degree of control a user has over the DTV application (trickplay, [0050], lines 19 - 24);

a permission field for denoting "sandbox" security permission of the DTV application (trickplay, [0050], lines 19 - 24 ); and

a rating field for indicating a rating of the DTV application (parental control, [0086]);

generating, by the head-end equipment, an application information table for conveying application signaling information to a DTV receiving unit, the application information table being generated based on the associated metadata (messages [0055], [0060]. [0062], tabulated messages [0074], sending messages [0070]);

generating, by the head-end equipment, a content referencing identifier for the DTV application (embedding data to reference other data, [0114], [0131], [0154]);

registering, by the head-end equipment, an authority record with an authority to enable

the DTV receiving unit to resolve the content referencing identifier (encryption and decryption, [0081] – [0084]);

generating, by the head-end equipment, a data grouping having the application information table and the content referencing identifier (tabulated messages and content referencing identifier as segmentation messages, [0074], [0127], [0131]);

sending, by the head-end equipment, a transmission to the DTV receiving unit, wherein such transmission comprises the data grouping, whereby the application signaling information is used by the DTV receiving unit to discover and launch the DTV application (user receiving data containing triggers, [0154]),

wherein the head-end equipment, the content provider, and the DTV receiving unit are each separate and distinct from each other (program source, cable system, set top box, [0051]).

Carlucci does not teach

a profile field for indicating a minimum profile of a system on which the DTV application will execute;

an originator identifier field for identifying an originator of the DTV application ();

In an analogous art, MacInnis teaches indicating a minimum profile of a system on which an application will execute (system requirement, [0033])

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Carlucci's retrieval system by including a field for system requirements as described in MacInnis for the advantage of sending the application to

only systems it will function on.

The combination of Carlucci and MacInnis does not teach an originator identifier field for identifying an originator of the DTV application

In an analogous art, Eyal teaches an originator identifier field for identifying an originator of the DTV application (source, col. 12, lines 47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Carlucci and MacInnis' interactive application system by including information about the source of data as described in Eyal's media search system and playback for the advantages of selecting applications that better fit user preferences.

As per claim 2, the combination of Carlucci, MacInnis and Eyal teach a computer storage media as recited in claim 1, wherein the method further comprises storing, by the head-end equipment, the DTV application and its associated metadata (Carlucci: [0049],[0052], [0055], [0102]).

As per claim 3, the combination of Carlucci, MacInnis and Eyal teach wherein the method further comprises constructing and formatting, by the head-end equipment, a DTV data service transmission which comprises the DTV application (Carlucci: [0101]).

As per claim 15, the combination of Carlucci, MacInnis and Eyal teach further comprising provisioning transmission bandwidth, by the head-end equipment, to transmit periodically the application signaling information built for the metadata (Carlucci: triggers, [0131], [0154]).

As per claims 19 and 26, the combination of Carlucci, MacInnis and Eyal teach wherein the metadata attributes further comprise:

a profile field for indicating a minimum profile of a system on which the DTV application will execute (MacInnis: system requirement, [0033]); and

a permission field for denoting "sandbox" security permission of the DTV application (Carlucci: trickplay, [0050], lines 19 – 24).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUGBENGA IDOWU whose telephone number is (571)270-1450. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 5712727527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/O. I./  
Examiner, Art Unit 2425

/Brian T. Pendleton/  
Supervisory Patent Examiner, Art Unit 2425